

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

**DALE MORTENSEN and MELISSA
BECKER, individually, and on
behalf of themselves and all others
similarly situated,**

Plaintiffs,

vs.

**BRESNAN COMMUNICATIONS,
L.L.C.**

Defendant.

CV 10-13-BLG-RFC

ORDER

Defendant Bresnan Communications has notified the Court that it intends to exercise its right to an interlocutory appeal of this Court's Order denying its motion for reconsideration of the Order denying motion to compel arbitration. *Doc. 50*. Since the denial of a motion to compel arbitration is an appealable order, 9 U.S.C. § 16(a)(1)(B), and the filing of a proper notice of appeal divests the district court of jurisdiction, *Ruby v. Secretary of U. S. Navy*, 365 F.2d 385, 388-89 (9th Cir. 1966), this Court has no authority to proceed with this case.

Accordingly, **IT IS HEREBY ORDERED** that the preliminary pretrial conference set for October 4, 2011 at 10:30 a.m. is **VACATED** and this case is **STAYED** pending resolution of the appeal.

DATED this 3rd Day of October, 2011.

/s/ Richard F. Cebull _____
Richard F. Cebull
United States District Court